उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(64)

मामला क्रमांक F.A.M. 60 **सन् 200** 7

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश		कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश
	Petitioners: (Applicants)	1.	Niranjan Singh Huda, S/o Late Shri Jivan Singh Huda, aged about 65 years, R/o 14, Shakun Nagar, Anand Nagar, Khandwa, (MP)
		2.	Mrs. Kamaljit Huda, W/o Niranjan Singh Huda, W/o Niranjan Singh Huda, aged about 58 years, R/o 14, Shakun Nagar, Anand Nagar, Khandwa, (MP)
		-Versus-	
	Respondent: (Non-applicants)	1.	Tavinderpal Singh, S/o Late Harvansh Singh Bhatia, Aged about 34 years, R/o Hazi Chaal, Tikrapara Chowk, Dayalbandh, Bilaspur, District Bilaspur (CG)
		2.	Smt. Manjit Kaur, W/o Pritam Singh Sahgal, aged about 46 years; R/o Gondpara Bilaspur, District Bilaspur (CG)
		3.	Pritam Singh Sahgal, W/o Shri Balwant Singh Sahgal, aged About 51 years; R/o Gond Para, Bilaspur, District Bilaspur (CG)
	Division Bench: - Hon'ble Shri L.C. Bhadoo & Hon'ble Shri Sunil Kumar Sinha, JJ.		
	25-9-2007:-		
	Shri P.R. Patankar, counsel for the appellants.		
	Shri U.K.S. Chandel, counsel for the respondent No.1.		

मामला क्रमांक ..... सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश
	Heard learned counsel for the parties. We have perused impugned order dated 4-4-2007 passed by the Principal Judge, Family Court, Bilaspur in Case No.247-A/2005 (Niranjan Singh Huda & another V. Tavinder Pal Singh & others) whereby learned Judge has declined to entertain the case on the ground that the Family Court has no jurisdiction to entertain the case & same has to be heard by the 1st Additional District Judge to whom District Judge has given power by distribution memo to hear the matters concerning Guardian & Wards Act cases. Learned Judge has also placed reliance on the decisions of two cases rendered by one Madhya Pradesh High Court {Gulab V. Madhya Pradesh, 2000 (2) M.P.L.J. 434} and another by Andhra Pradesh High Court {R. Durga Prasad V. Bharat Sangh, AIR 1998 Andhra Pradesh 290}. Having heard learned counsel for the parties, we have perused provisions of clause (g) of sub-Section (1) of Section 7 of the Family Courts Act, 1984. Section 7 (1)(a) envisages that Family Court shall have and exercise all the jurisdiction exercisable by any district court or any subordinate civil court under any law for the time being in force in respect of suits and proceedings of the nature referred to in the Explanation: *Explanation*:- The suits and proceedings referred to in this sub-section are suits and proceedings of the following nature, namely:- Xxx xxx xxx Xxx xxx xxx	

मामला क्रमांक ..... सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

Xxx xxx xxx

Xxx xxx xxx

(g) a suit or proceeding in relation to the guardianship of the person or the custody of, or access to, any minor.

Perusal of the above provision clearly shows that the matters arising under Sections 7 and 10 of the Guardian and Wards Act are to be heard by the Judge of the Family Court. The Family Court at Bilaspur has been established under the provisions of Family Courts Act, 1984, therefore, learned Principal Judge, Bilaspur, has jurisdiction to entertain the petition filed by the appellants herein under Section 7 and 10 of the Guardian and Wards Act.

Learned Judge has mentioned that the District and Sessions Judge has passed order that the 1st Additional Sessions Judge will have jurisdiction to hear matters under Sections 7 and 10 of the Guardian and Wards Act, 1890.

We fail to understand how the District Judge can pass order against the provisions of the Act when the Family Court specially authorizes Judge of the Family Court to entertain a suit or proceeding in relation to the guardianship of the person or the custody of, or access to, any minor. Therefore, order impugned passed by the learned Judge, Family Court, is patently illegal. The judgments upon which Judge of the Family Court has relied upon are not relevant at all in this case.

Therefore, in view of the above, order impugned cannot be sustained, same is liable to be set aside and it is set aside. Learned

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मामला क्रमांक.....सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश
Barve	Judge, Family Court is directed to take up & hear the matter & expedite the same as per the order of this Court passed in W.P. No.6996/2006 on 22-1-2007. Parties are directed to appear before the Judge, Family Court on 5th October, 2007. Registry is directed to send copy of this order immediately to the Family Court for compliance. The appeal is disposed of accordingly. **Sd/-** **L.C.Bhadoo** **Judge**	**Sd/-** **Sunil Kumar Sinha** **Judge**

GRPRJ — FS/246— 2/2007 — 50,000.